

COMMITTEE ON COMMERCE

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 [E] Emergency Clause
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HB 2050 – Chapter 110 – *corporate dissolution; cancellation; reinstatement

Permits an administratively dissolved corporation, nonprofit corporation or limited liability company 6 years in which to apply to the Arizona Corporation Commission to reinstate its corporate status. Allows a dissolved foreign corporation or foreign nonprofit corporation 6 years to apply to reinstate its authority to transact business.

HB 2110 – Chapter 9 – real estate education

Permits the Arizona Department of Real Estate (ADRE) commissioner, in cooperation with industry educators, to develop, sponsor and hold educational seminars and workshops to benefit licensees and permits use of revolving fund monies for this purpose. Specifically prohibits ADRE from competing with the private sector. Provides direction to the agency and schools for course content and monitoring, including live and distance learning. Approves instructors, courses and school operations for a 4 year time period. Specifies requirements, including timeframes. Outlines professional qualifications for instructors.

HB 2111 – Chapter 4 – corporation and LLC omnibus

Conforms the statutes that regulate corporations and limited liability companies (LLCs).

- Clarifies a document may be delivered to the Arizona Corporation Commission (ACC) by means of fax or electronic transmission. Authorizes the ACC to prescribe the filing format.
- Asserts that all filing fees submitted to the ACC are nonrefundable.
- Clarifies the official time requirement for publication begins on the date of approval.
- Permits a person to apply to the ACC for a *Certificate of Good Standing* for either a domestic or foreign LLC and outlines specific requirements. If a state agency can confirm through the ACC that an applicant is entitled to a *Certificate of Good Standing*, prohibits that agency from requiring the applicant to physically obtain the certificate.
- Requires Articles of Merger or Consolidation to contain any amendments to the Articles of Organization of the surviving LLC, if the surviving business is an LLC.
- Establishes that if the Articles of Merger include amendments to the Articles of Organization, then they must be filed with the ACC as *Articles of Amendment and Merger*.
- Rewrites and clarifies the process and procedures after dissolution of the LLC, including the stipulation that a dissolved LLC cannot conduct business except to finalize its affairs.

HB 2185 – Chapter 12 – workers' compensation; lump sum payment

Increases the maximum lump sum payment to \$150,000 for a worker's compensation claim classified as *permanent partial disability* or *permanent total disability*.

HB 2194 – Chapter 116 – workers' compensation; third person liability

Stipulates that if an eligible worker is injured or killed by a third party, and the worker or beneficiary fails to file a cause of action or fully prosecute the claim, then all of the following apply to the insurance carrier or self-insured employer (carrier): the carrier may file an action against the third party; a dismissal shall not prejudice the carrier's right to recover the paid benefits; the carrier may file the action prior to one year after the cause of action accrues if the statute of limitations is one year. Outlines requirements.

HB 2195 – Chapter 271 – workers' compensation; death benefits

Increases the maximum workers' compensation benefits paid to an eligible injured worker or the survivors of a person whose injury or death is employment-related.

- Compensates the child or children of a deceased worker at the rate of 66 2/3 percent of the worker's average monthly wage (AMW) when there is no surviving spouse, or the surviving spouse subsequently dies or remarries.
- Beginning January 1, 2008, increases the AMW to \$3,000 per month. Maximum compensation to the eligible injured worker is \$2,000 per month with this increase.
- Beginning January 1, 2009, increases the (AMW) to \$3,600 per month. Maximum compensation to the eligible injured worker is \$2,400 per month.
- Not later than August 1, 2009 and each year thereafter, requires the Industrial Commission to adjust the AMW according to the average State wage based on the Bureau of Labor Statistics data and capped at 5 percent.

HB 2200 – Chapter 224 – *contractors; requirements; construction contracts

Beginning January 1, 2008, specifies new minimum elements of a written construction contract greater than \$1,000. Adds *recklessly* conspiring with a licensed or unlicensed person with the intent to evade the laws of construction contractors to the list of infractions that constitute a Class 1 misdemeanor. For new home or new building construction, clarifies the timeframe for filing a complaint against a licensee begins the earlier of 2 years after the close of escrow or actual occupancy and otherwise commences on completion of the specific project.

HB 2245 – Chapter 272 [E] [Prop 105] – *minimum wage; employers; liability

An Emergency measure that provides limited immunity from liability for employers that do not pay the State minimum wage, but hire developmentally disabled individuals, while acting in good faith and relying on the Industrial Commission's administrative rules, regulations, orders, interpretations, administrative practices and enforcement policies. Contains a Proposition 105 clause.

HB 2252 – Chapter 15 – state plumbing code

Sunsets the Uniform Plumbing Code Commission and eliminates all pertinent statutory references.

HB 2291 – Chapter 208 – driver license information; retailer use

Permits a retailer to retain a customer's driver license or state-issued identification information only for the purpose of verifying identity, confirming proper licensure to operate a vehicle or disclosing information to certain authorized state or business entities. Prohibits transmission of information to a third party, except a law enforcement agency for investigation purposes. Authorizes use of ID information in a court hearing or administrative proceeding. Prescribes enforcement and assesses a tiered maximum civil penalty for each incident that ranges from \$500 to \$5,000.

HB 2323 – Chapter 76 – hazard disclosures; reports

Clarifies and outlines additional requirements for a real estate Hazard Disclosure Report, including any conditions that affect the property. Mandates *errors and omissions* insurance of \$1 million per occurrence with an aggregate of at least \$10 million. Requires disclosure in any agreement or marketing material that a real estate buyer/seller is not required by law to purchase a report. Prescribes penalties for violations.

HB 2391 – Chapter 187 – spirituous liquor; omnibus

Amends the laws that regulate the Arizona Department of Liquor Licenses and Control.

- Redefines the *licensed premises* to include a patio that is noncontiguous to the rest of the licensed premises if separated by a public or private walkway or driveway not to exceed 30 feet, subject to administrative rules. Permits spirituous liquor on the noncontiguous premises.
- Clarifies and outlines interim permit and licensure requirements when a licensee fails to meet the 40 percent food sales requirement for a restaurant.
- Modifies the requirements for licensees and employees obtaining identification to ensure legal age requirements. Mandates a Class 1 misdemeanor if there is *actual knowledge* a person is underage and the licensee or employee still admits the person onto the licensed premises.
- Permits an opened bottle of wine to be removed from the licensed premises if securely closed.
- In addition to any other penalties provided by law, authorizes the court to suspend the driving privilege of a person less than 18 years of age for a maximum 180 days upon conviction of buying, possessing or consuming spirituous liquor.
- Makes the violations currently listed in statute the maximum penalties for underage persons who are convicted of using a false identification.

SB 1047 – Chapter 96 – *exemption; private investigators

Clarifies the current exemption from Private Investigator licensure requirements applies to a business that obtains or furnishes financial ratings and related personal information for others; this includes a Consumer Reporting Agency as defined in the *Fair Credit Reporting Act*, but does not extend to those engaged in other investigative research classified in the *Fair Credit Reporting Act* as an *investigative consumer report*.

SB 1054 – Chapter 142 – arbitration; claims; compensation

Increases the maximum amount that may be disputed in an Arbitration case to \$65,000, and permits arbitrators to be paid a maximum \$140 daily compensation. Upon appeal, stipulates that the required deposit amount will be returned to the appellant if the judgment is at least 23 percent greater than the monetary or other type of relief granted by the arbitration award. If judgment is not at least 23 percent greater, the deposit must be used to pay costs and fees required by the court.

SB 1106 – Chapter 152 – liquefied petroleum gas; limited liability.

Specifies that in any civil action, a liquefied petroleum gas (LPG) provider is only liable for damages in proportion to the LPG provider's percentage of fault and is not liable for damages attributed to an unforeseeable misuse, alteration or modification of gas equipment that could not have been discovered by the LPG provider in the exercise of reasonable care.

SB 1134 – Chapter 282 – bad checks; classification

Prescribes *issuing a bad check* in the amount of \$5,000 or more as a Class 6 felony, punishable by up to 1 year in jail and a \$150,000 fine unless the person who writes the check pays the full amount of the check, including all accrued fees and interest (12 percent per year and any other applicable fees) within 60 days after receiving notice of the dishonored check. Currently the penalty for *issuing a bad check* is a Class 1 misdemeanor punishable by up to 6 months in jail and a \$2,500 fine.

SB 1155 – Chapter 50 – self-service storage agent license

Authorizes a self-service storage facility operator to sell insurance incidental to renting the storage space to cover the loss/damage of stored personal property. Outlines specific requirements.

SB 1255 – Chapter 231 – *amendments; landlord tenant act

Amends the Arizona Residential Landlord and Tenant Act to permit a tenant to provide the landlord with the name of an authorized person to timely remove all belongings from the rental unit in the event of the tenant's death. Clarifies the use of refundable deposits according to the terms of the property management agreement. Outlines notification and proper entry requirements for both the landlord and tenant when repairs to the dwelling unit are necessary.

SB1256 – Chapter 55 – administrative procedures; exemption

Exempts the State Compensation Fund from the Administrative Procedures Act.

SB 1291 – Chapter 291 [E] – state board of appraisal

Modifies the statutes that regulate the Arizona Board of Appraisal.

- Exempts from regulation a person who produces a statement of the estimated value of real property through an Internet website, automated valuation or other software program if the person discloses that the estimate is not an *Appraisal*.
- Establishes and modifies pertinent definitions. Changes several references.
- Makes a consideration for a Board member to serve more than 2 consecutive terms.
- Prescribes the records considered to be confidential records.
- Revises the requirements for licensure or certification to include experience that was acquired within an immediately preceding 10-year period prior to filing an application.
- Requires the Board to have actually entered into a reciprocity agreement with another state prior to allowing an applicant from that state to receive a reciprocal license or certification.
- Rewrites the section pertaining to the late renewal of a license or certificate.
- Permits a person on active military duty that has been deployed outside the United States to present evidence of deployment, along with continuing education requirements within 180 days of returning home, without having to pay any late fees or delinquent assessments.
- Requires each licensed or certified appraiser to provide the Board with a daytime telephone number and notify the Board of any change within 10 days. Places limits on continuing education that is not part of Board-approved student educational processes and programs.
- Outlines the process for a license or certificate holder to place a license on inactive status. Permits the reactivation any time within a 2 year period. States specific requirements. Prescribes the procedures for a license or certificate holder who is ordered to active military duty with the United States Armed Forces to place a license or certificate on inactive status. Allows reactivation any time within a 3 year period. Outlines specific requirements.
- Eliminates the current law that addresses a state licensed or certified appraiser who enters into an agreement to perform specialized services that are paid through a fixed fee or contingency.

SB 1292 – Chapter 217 – *timely medical payments; workers; compensation

Establishes a system for the timely payment of workers' compensation medical claims. Requires the insurance carrier, self-insured employer or claims processor to determine whether to accept or deny a medical claim submitted by a healthcare provider within 30 days of receipt and to pay an accepted claim within 30 days of receiving the bill. Permits the healthcare provider to charge interest on late payments, and requires the insurer to receive all bills within 24 months from the date of service.

SB1323 – Chapter 162 – antifreeze; aversive or bittering agent

Requires engine coolant and antifreeze to contain a bittering agent to render it unpalatable.

SB 1349 – Chapter 165 – department of real estate

Amends the statutes that govern the Arizona Department of Real Estate (ADRE).

- Modifies the requirements for document submission to ADRE. Requires an entity's broker's license to run concurrently with the designated broker's license.
- Prohibits a professional corporation or professional limited liability company from being licensed as an *employing broker*. Requires a corporation, limited liability company or partnership to report its dissolution to ADRE within 10 days.
- Renews a license for 4 years rather than 2 years. Adjusts the fee schedule and continuing education requirements.
- Requires a school to exercise reasonable supervision over the activities of a licensed agent and adds *failure to comply* with the list of reasons the commissioner may suspend, revoke, deny issuance or renewal of a license, or issue a letter of concern.
- In situations where the commissioner has withdrawn certification or approval of a school, course or instructor, allows a copy of the commissioner's order demanding any unpaid civil penalties due to be filed with the clerk of the appropriate superior court and enforced as a judgment of the superior court. Currently this provision applies only in cases where the commissioner has *revoked a license*.
- Applies the Act retroactively from and after June 30, 2007.

SB 1546 – Chapter 221 – condominium recovery fund

Establishes the *Condominium Recovery Fund* administered by the Department of Real Estate (ADRE) to compensate a buyer aggrieved by failure of a subdivider to complete a condominium project. Outlines requirements and exclusions, including the commissioner's powers and duties.

- Requires the fund to only pay losses directly arising out of the real estate transaction, including reasonable attorney fees and court costs.
- Stipulates an award from the fund shall not exceed 20 percent of the base price of each unit, or a maximum \$1 million for each project in total.
- In addition to other fees, requires an applicant for a public report for a condominium project to pay to the fund an amount established by the Commissioner if the balance in the fund was less than \$5 million on June 30 the previous fiscal year. Limits monies to administer the program to \$50,000 maximum per fiscal year.

- Establishes a statute of limitations of 3 years after the cause of action.
- Directs an aggrieved buyer who has obtained a judgment against a subdivider to apply to ADRE within 2 years after the termination of all proceedings connected with the judgment in order to receive payment from the Fund. Permits the Commissioner to waive the 2 year statute of limitations.
- Requires ADRE to create an application form including detailed instructions regarding documentary evidence, pleadings, court rulings, products of discovery in the underlying litigation and notice requirements.
- Automatically terminates the public report upon judgment authorizing payment from the Fund and authorizes the Commissioner to take any further appropriate action.

SB 1547 – Chapter 233 – organized retail theft task force

Establishes the 11-member *Organized Retail Theft Task Force* comprised of law enforcement personnel, county attorneys and retailers. Outlines powers and duties and requires the Task Force to report its findings and recommendations to the Legislature on or before December 1, 2008. Repeals the provisions as of October 1, 2009.

SB 1571 – Chapter 293 – *job training; extension; prohibitions

Continues the Arizona Job Training Program for a period of 4 years, and requires the Department of Commerce to implement a web-based application process. Modifies the make-up of the Governor's Council on Workforce Development to increase the number of small business representatives. Permits the unused portion of the 25 percent of monies set-aside for small/rural businesses to accrue each year, rather than revert back to the Job Training Fund for use by other eligible businesses.

